



# GREENE KETCHUM

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February 5, 2018

James R. Bennett, II  
Assistant U.S. Attorney  
801 W. Superior Avenue, Suite 400  
Cleveland, Ohio 44113-1852

RE: In re: National Prescription Opiate Litigation MDL 2804

Dear James:

Thank you for taking the time to speak to us on Friday, February 2, 2018, regarding the Order Re: ARCOS/DADS Database entered by Judge Dan A. Polster in MDL 2804 styled *In re: National Prescription Opiate Litigation*, Case No. 1:17-MD-2804, pending in the United States District Court for the Northern District of Ohio, Eastern Division.

As you know, I have been appointed one of the three co-leads of MDL 2804 along with Paul Hanly and Joe Rice. Prior to the formation of the MDL, my office issued a *Touhy* letter dated October 2, 2017, and issued a subpoena duces tecum in *City of Cincinnati v. AmerisourceBergen Corp., et al.*, Case No. 2:17 CV 713, pending in the United States District Court for the Southern District of Ohio, Eastern Division (J. Sargus) (subsequently transferred to MDL 2804). Since formation of the MDL, my colleague, David Butler, communicated further with you by email dated January 12, 2018.

The recent mandate from Judge Polster acknowledges “[t]here is a legitimate need for Plaintiffs to obtain this data” and directs the “MDL Plaintiffs and the DEA to meet to see if they can reach agreement on what part of the ARCOS/DADS database the DEA will produce.” We would like to open a direct line of communication to further these discussions.

At the outset, we have two broad questions about the database which will enable us to better frame our data request:

- (1) What is the native format of the database?
- (2) Which data fields are included in the database?

James R. Bennett, II  
Page 2  
February 5, 2018

Re: In re: National Prescription Opiate Litigation MDL 2804

Summarizing our prior communications, the following appear to be the subject matters for further discussion:

(a) **Time frame.** We understand the information in the database dates back to 2006. The Court mandates that production must be tailored – perhaps through a protective order – in a way to address the DEA’s concerns regarding “potential interference in investigations and enforcement actions.” We are willing to discuss and address any such concerns;

(b) **Geography.** We are seeking data nationwide (including Puerto Rico), which reflects the diverse interests of the Plaintiffs in MDL 2804;

(c) **Format.** We are seeking production in its native format so that we can search, index and/or analyze the data. We welcome a discussion between our consultants and your technical support staff to better understand the architecture of the database to facilitate transfer of data. We also will need to make sure that we receive data after it has been validated by the DEA and adjusted for returns;

(d) **Transactions.** We are seeking data related to all transactions and returns between manufacturers and distributors, distributors and distributors, and distributors and retailers (pharmacies and practitioners);<sup>1</sup>

(e) **Opioids.** We would like more information regarding the classification of various opioids within the database. We are interested in transactions and returns related to hydrocodone, oxycodone, hydromorphone and fentanyl (as well as combination products); and

(f) **Data fields.** While we would like to better understand the data fields which are available within the database, we anticipate a need for at least the following data fields for each transaction and return:

- Seller (name, DEA registrant number, county, city, state, zip code)
- Buyer (name, DEA registrant number, county, city, state, zip code)
- Transaction date
- Drug manufacturer, drug name, quantity and/or NDC number

The Court has imposed a deadline of Friday, February 23, 2018, for Plaintiffs and the DEA to “file a report detailing their agreement or, if agreement has not been reached, the issues that

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<sup>1</sup> Judge Polster’s Order is mindful of protecting “the location of warehouses where opioids are stored.” Please let us know what measures should be put into place to address this concern.

James R. Bennett, II  
Page 3  
February 5, 2018

Re: In re: National Prescription Opiate Litigation MDL 2804

remain to be resolved.” It is important that we resolve these basic issues promptly and are ready to meet by phone or in person at your earliest availability.

Very truly yours,

A handwritten signature in blue ink, appearing to read "P. Farrell", with a stylized flourish at the end.

Paul T. Farrell, Jr.

PTF/lhc

cc: Paul J. Hanly, Jr.  
Joseph F. Rice